

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ALDO VERA, JR., as Personal Representative
of the Estate of Aldo Vera, Sr.,

Plaintiff,

v.

THE REPUBLIC OF CUBA,

Defendant.

Case No. 12-CV-01596
(AKH)

ALDO VERA, JR., as Personal Representative
of the Estate of Aldo Vera, Sr.; and

JEANETTE FULLER HAUSLER, and WILLIAM FULLER as
court-appointed co-representatives of the ESTATE OF ROBERT
OTIS FULLER, deceased, on behalf of all beneficiaries of the
Estate and the ESTATE OF ROBERT OTIS FULLER; and

ALFREDO VILLOLDO, individually, and
GUSTAVO E. VILLOLDO, individually and as Administrator,
Executor, and Personal Representative of the ESTATE OF
GUSTAVO VILLOLDO ARGILAGOS,

Petitioners,

v.

BANCO BILBAO VIZCAYA ARGENTARIA (S.A.); BANK OF
AMERICA N.A.; BANK OF NEW YORK MELLON;
BARCLAY'S BANK PLC; CITIBANK N.A.; CREDIT SUISSE
AG, NEW YORK BRANCH; DEUTSCHE BANK TRUST
COMPANY AMERICAS; HSBC BANK (HSBC BANK USA,
N.A.); INTESA SANPAOLO S.P.A.; JP MORGAN CHASE
BANK, N.A.; RBS CITIZENS, N.A.; ROYAL BANK OF
CANADA; SOCIETE GENERALE; UBS AG; WELLS FARGO
BANK, NA; BROWN BROTHERS HARRIMAN & CO.;
MERCANTIL COMMERCEBANK, N.A.; STANDARD
CHARTERED BANK; AND BANCO SANTANDER, S.A.,

Respondents/Garnishees.

**DECLARATION OF
ROBERT A. SWIFT IN
SUPPORT OF
MOTION TO
COMPLETE
TURNOVER OF
UNCONTESTED
PHASE 1 ACCOUNT
AT BANCO BILBAO
VIZCAYA
ARGENTARIA (S.A.)**

ROBERT A. SWIFT, declares under penalty of perjury as follows:

1. I am a senior member of the law firm of Kohn, Swift & Graf, P.C. which represents Petitioner Aldo Vera, Jr., and am admitted *pro hac vice* in this litigation. I am familiar with the proceedings in this litigation. I make this Declaration based on my personal knowledge of the facts set forth herein.

2. After careful review and analysis of the information furnished by Garnishee, Banco Bilbao Vizcaya Argentina (“BBVA”), Counsel for Petitioners identified a single Noticed Phase I account in which an agency or instrumentality of the Republic of Cuba has an interest. That blocked account resulted from a blocked electronic funds transfer (“EFT”) in which the Cuban agency or instrumentality is the originator. The account is identified in Exhibit 1 and filed under seal with just BBVA and the Court receiving the Exhibit.

3. The Exhibit utilizes the designated account number furnished by BBVA. The account has been blocked pursuant to section 5(b) of the Trading with the Enemy Act (50 U.S.C. App. 5(b)) and the Cuban Assets Control Regulations, 31 C.F.R. § 515.201 et seq. (the CACRs) as issued by the by the Office of Foreign Assets Control (“OFAC”) and codified by the Cuban Liberty and Democratic Solidarity Act of 1996, § 102(h), Pub. L. No. 104-114, 110 Stat. 792 (codified at 22 U.S.C. § 6032(h)). BBVA furnished counsel for Petitioners information as to the name of the originator and intermediary bank on the EFT but lacked complete information as to the names or identities of the originating bank, beneficiary bank, or beneficiary. BBVA made service of (1) this Court’s Order with Respect to Giving Notice of Turnover Proceeding, (2) Petitioners’ Amended Turnover Petition and (3) Notice of Lawsuit, on the originator of the EFT in accordance with the Court’s Order.

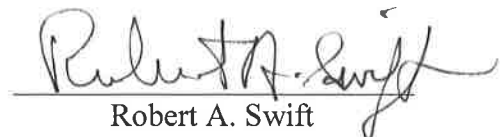
4. Pursuant to this Court's Order with Respect to Giving Notice of Turnover Proceeding, as amended, the deadline for the originator receiving notice to object or make a claim to the Phase 1 accounts was June 19, 2014. As to the Phase 1 account listed in Exhibit 1 attached hereto, no person or entity submitted an objection or made a claim by said date or through August 29, 2014.

5. CIMEX (whose full name translates to Cuban Export-Import Corporation) is the originator of the EFT. My office researched the relationship of CIMEX to the Cuban government. The information researched included (a) websites of the Cuban government and CIMEX itself, (b) OFAC's list of Specially Designated Nationals, (c) judicial opinions and (d) published commercial trade information. There is clear evidence that CIMEX is an agency or instrumentality of the Cuban Government.

6. CIMEX is Cuba's largest business conglomerate and does business in many sectors, including tourism, retail and wholesale distribution, transportation, financial services, and real estate construction. CIMEX is entirely composed of Cuban state capital and controlled by the State Council. It is also on OFAC's list of Cuba's Specially Designated Nationals. Information supporting this is attached as Exhibit 2.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Philadelphia, Pennsylvania
on September 15, 2014


Robert A. Swift